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6 IN THE UNITED STATES DISTRICT COURT
7
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 MOHAMAD SAFDAR SHEIKH,

No. C 03-05604 JSW

10 Plaintiff,

11 v.

**ORDER REQUIRING BRIEFING
ON REAL ID ACT**

12 JOHN ASHCROFT,

13 Defendant.
14 _____/

15 On May 11, 2005, after the parties submitted briefs in this case, Congress enacted the
16 Real ID Act of 2005, Pub.L. No. 109-13, Div. B, 119 Stat. 311. Section 106(a) of the REAL ID
17 Act amends section 242 of the Immigration and Nationality Act, 8 U.S.C. § 1252 to provide
18 that:

19 Notwithstanding any other provision of law (statutory or nonstatutory), including section
20 2241 of title 28, United States Code, or any other habeas corpus provision, and sections
21 1361 and 1651 of such title, a petition for review filed with an appropriate court of
22 appeals in accordance with this section shall be the sole and exclusive means for judicial
review of an order of removal entered or issued under any provision of this Act, except
as provided in subsection (e).

23 The REAL ID Act is retroactive and thus, applies to currently pending habeas petitions. *See* §
24 106(b) of the REAL ID Act. Pursuant to section 106(c) of the REAL ID Act, district courts are
25 directed to transfer all pending habeas petitions filed under 28 U.S.C. § 2241 challenging a final
26 administrative order of removal, deportation, or exclusion, to the court of appeals for the circuit
27 in which a petition for review could have been properly filed. *See* § 106(c) of the REAL ID Act.
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1 The Court HEREBY ORDERS that the parties shall provide further briefing on whether
2 the above captioned matter should be transferred to the Ninth Circuit pursuant to the REAL ID
3 Act. Defendant shall file a brief on this issue by no later than August 17, 2005. Plaintiff shall
4 file a brief on this issue by no later than noon on August 26, 2005.

5 **IT IS SO ORDERED.**

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7 Dated: August 8, 2005


JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

United States District Court

For the Northern District of California